

## § 70.436

President makes the determination that the disaster has occurred. The determination date is construed to mean the date the Director, Office of Emergency Preparedness, identifies the specific disaster area.

(g) *Drawback of tax.* Drawback may be allowed to the person who paid the tax on tobacco products, and cigarette papers and tubes which are shipped to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States.

(h) *Credit of tax.* Taxes paid on tobacco products, and cigarette papers and tubes lost (otherwise than by theft) or destroyed by fire, casualty, or act of God, while in the possession or ownership of the manufacturer, or withdrawn from the market, may be credited upon approval of a claim.

(i) *Reopening claims.* A claimant who wishes to have a rejected claim reopened must, within the applicable statutory period of limitations, submit a written application to the appropriate ATF officer for reconsideration of the claim. Such application must show that the additional evidence to be presented is new and material, and that such evidence was unknown to the claimant, or unobtainable by the claimant, when the claim was previously under consideration.

(j) *Claimant's rights under law and regulations.* Before final action has been taken on a claim, a claimant who, by reason of an oversight, misunderstanding of law and regulations, miscalculation, or other cause, did not claim the full amount of abatement, refund, credit, or drawback, as the case may be, of tax to which the claimant is legitimately entitled, may amend a valid claim, and statements filed in support thereof, in instances where such a claim is deficient in establishing the claimants eligibility to rights extended under law and regulations.

[T.D. ATF-251, 52 FR 19325, May 22, 1987. Redesignated and amended by T.D. ATF-301, 55 FR 47606, 47654, Nov. 14, 1990]

## § 70.436 Offers in compromise.

Procedure in the case of offers in compromise of liabilities under 26

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U.S.C. chapter 52 is set forth in §§ 70.482 through 70.484.

[T.D. ATF-301, 55 FR 47654, Nov. 14, 1990]

## § 70.437 Rulings.

The procedure for rulings in tobacco tax matters is set forth in § 70.471.

[T.D. ATF-301, 55 FR 47654, Nov. 14, 1990]

## § 70.438 Forms.

Detailed information as to all forms prescribed for use in connection with tobacco taxes is contained in the regulations referred to in § 70.431(b).

[T.D. ATF-251, 52 FR 19325, May 22, 1987. Redesignated by T.D. ATF-301, 55 FR 47653, Nov. 14, 1990, as amended by T.D. ATF-450, 66 FR 29029, May 29, 2001]

## PROVISIONS RELATING TO FIREARMS, SHELLS AND CARTRIDGES, AND EXPLOSIVES

## § 70.441 Applicable laws.

(a) Chapter 53 of the Internal Revenue Code (26 U.S.C. 5801-5872), the provisions of which are derived from the National Firearms Act Amendments of 1968 (82 Stat. 1227), imposes a tax on the making and transfer in the United States of machine guns, destructive devices, and certain other types of firearms, and an occupational tax upon every importer and manufacturer of, and dealer in, such firearms. Section 1(b) (2) of the act of August 9, 1939 (52 Stat. 1291; 49 U.S.C. 781-788), makes provision for the seizure and forfeiture of vessels, vehicles, and aircraft which are used to transport, carry, or possess, or to facilitate the same, any firearms with respect to which there has been committed any violation of the National Firearms Act or any regulations issued pursuant thereto.

(b) Title I, State Firearms Control Assistance (18 U.S.C., Chapter 44), of the Gun Control Act of 1968 (82 Stat. 1213), as amended by Pub. L. 99-308 (100 Stat. 449), Pub. L. 99-360 (100 Stat. 766) and Pub. L. 99-408 (100 Stat. 920), provides for the licensing of manufacturers and importers of firearms and ammunition, collectors of firearms, and dealers in firearms, and establishes controls for firearms and ammunition acquisitions and dispositions.

(c) Title I, State Firearms Control Assistance (18 U.S.C. Chapter 44), of the Gun Control Act of 1968 (82 Stat. 1213) as amended by Pub. L. 99-308 (100 Stat. 449) and Pub. L. 99-360 (100 Stat. 766), provides that no person may ship or transport any firearms or ammunition in interstate or foreign commerce, or receive any firearms or ammunition which has been shipped or transported in interstate or foreign commerce, or possess any firearms or ammunition in or affecting commerce, who (1) has been convicted of a crime punishable by imprisonment for a term exceeding 1 year, (2) is a fugitive from justice, (3) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802), (4) has been adjudicated as a mental defective or has been committed to a mental institution, (5) is an alien illegally or unlawfully in the United States, (6) has been discharged from the Armed Forces under dishonorable conditions, or (7) having been a citizen of the United States, has renounced citizenship.

(d) Section 38 of the Arms Export Control Act (22 U.S.C. 2778) and regulations thereunder and part 47 of this chapter are applicable to the registration and licensing of persons engaged in the business of manufacturing, importing or exporting arms, ammunition, or implements of war. The Secretary of the Treasury is authorized to control, in furtherance of world peace and the security and foreign policy of the United States, the import of articles enumerated on the U.S. Munitions Import List.

(e) Title XI, Regulation of Explosives (18 U.S.C. chapter 40) of the Organized Crime Control Act of 1970 (84 Stat. 922) provides for the licensing of manufacturers, importers, and limited manufacturers of, and dealers in, explosives in interstate or foreign commerce, and for issuance of permits for users who buy or transport explosives in interstate or foreign commerce.

(f) Chapter 32 of the Internal Revenue Code (26 U.S.C. 4181), imposes a tax upon the sale by the manufacturer, producer, or importer of pistols, revolv-

ers, firearms (other than pistols and revolvers), and shells and cartridges.

[T.D. ATF-251, 52 FR 19325, May 22, 1987. Redesignated by T.D. ATF-301, 55 FR 47653, Nov. 14, 1990, as amended by T.D. ATF-331, 57 FR 40328, Sept. 3, 1992]

**§ 70.442 Taxes relating to machine guns, destructive devices, and certain other firearms.**

Part 179 of title 27 CFR contains the regulations relative to the:

(a) Payment of special (occupational) taxes by manufacturers and importers of and dealers in, machine guns, destructive devices, and certain other types of firearms,

(b) Payment of the tax on the making or transfer of such firearms,

(c) Registration, identification, importation, and exportation of such firearms,

(d) Keeping of books and records and rendering of returns, and

(e) The forfeiture and disposition of seized firearms under the provisions of the National Firearms Act.

**§ 70.443 Firearms and ammunition.**

(a) *Commerce in firearms and ammunition.* (1) 27 CFR part 178 contains the regulations relative to:

(i) The licensing of importers and manufacturers of firearms and ammunition, collectors of firearms, and dealers in firearms,

(ii) The identification of firearms,

(iii) The acquisition and disposition of firearms and ammunition,

(iv) The records required to be kept by licensees, and

(v) The forfeiture and disposition of seized firearms and ammunition, under the provisions of title I of the Gun Control Act of 1968, as amended, and also

(vi) The restrictions regarding the receipt, possession, or transportation of firearms by certain persons.

(b) *Firearms and ammunition excise taxes.* (1) 27 CFR part 53 contains the regulations relative to:

(i) Payment of excise tax on the sale of pistols, revolvers, firearms (other than pistols and revolvers), shells and cartridges,

(ii) Establishing constructive sales price,

(iii) Registration for tax free sales,